

Remarks

Claims 1-45 were cancelled. Claims 46-52 are currently pending.

It was stated, in the Office Communication, dated September 27, 2004, that the submission filed on May 27, 2004 was deemed not fully responsive on the ground that "...in removing the above limitations that require particular positioning of particular nucleotide sequences that must be unrelated to any endogenous RNA in the host, has changed the subject matter in newly presented Claims 46-52 such that they are now drawn to a different invention than that previously claimed and examined as a matter of right."

Applicants respectfully submit that Claims 46-52 are not drawn to a different invention than that previously claimed and examined as a matter of right.

Claim 46 corresponds to previous Claim 1. Claim 46 is limited to soybeans. The language around the sequences not sharing sequence identity has been added back to facilitate prosecution. However, the sequences specifically recited in Claim 46 are sequences with a region unrelated to any endogenous RNA. Specifically, these sequences are 1X or 2X ELVISLIVES.

In other words, claims directed to parts of SEQ ID NO: 13 (2 copies ELVISLIVES) are not believed to change the invention previously claimed, since the sequence claimed is "unrelated to any endogenous RNA".

Additional support can be found in the specification on page 18, line 12-34, the sequence ELVISLIVES is listed as one of the preferred embodiments of the complementary sequences "with a region, unrelated to any endogenous RNA". "ELVISLIVES" is identified in SEQ ID NO: 12 (1 copy ELVIS LIVES) and 13 (2 copies ELVISLIVES) on page 22 lines 34-36 of the specification.

Furthermore, Example 7 describes the use of "ELVISLIVES" as a "complementary sequence not known to be part of any biologically derived gene or genome (i.e. sequences that are "synthetic" or conjured up from the mind of the inventor)" and hence unrelated to any endogenous RNA.

Claim 1, as originally filed, and, as amended, (now Claim 46) never recited that the location be 3' or 5' of a region with homology to a target mRNA. Claim 46 is consistent in this regard. Thus, it is respectfully submitted that the invention elected appears to remain the same.

Claim 47 corresponds to previous Claim 2. Claim 47 is limited to soybeans.

The language around the sequences not sharing sequence identity has been added back to facilitate prosecution. Attention is kindly invite to the above comments concerning the ELVISLIVES sequences.

With respect to language regarding a 3' or 5' location, this is recited in Claim 47 and is consistent with the recitation in previously pending Claim 2. Thus, it is respectfully submitted that the invention elected appears to remain the same.

Claim 48 is related to previous Claim 1. It concerns SEQ ID NO:13 and further recites, among other things, that two fully complementary RNA regions which do not share sequence identity with any endogenous RNA in soybean and which are, transcribed from SEQ ID NO:13 and which are in proximity to a sequence homologous to all or part of the RNA in (a), wherein **said sequence is introduced into the NotI site of SEQ ID NO:13** and wherein the recombinant construct, when expressed in soybean reduces expression of the target mRNA or any endogenous mRNA that has at least 80% sequence identity with a sequence homologous to all or part of the RNA in a) based on the Clustal method of alignment.

Support for this can be found in Example 7 and elsewhere in the specification.

It is respectfully submitted that the comments made above with respect to Claim 46 are equally apposite with respect to Claim 48.

Claim 49 corresponds to previous Claim 9. It is believed that no amendment of this claim is warranted at this time.

Claim 50 corresponds to previous Claim 11. Attention is kindly invited to the comments made above. Original Claim 11 recited that the two complementary RNA regions were in proximity to (a). It did not recite any 3' of 5' locations.

Claim 51 corresponds to previous Claim 12. It is believed that the above comments are equally apposite here with respect to the ELVISLIVES sequences. The amendment to Claim 51 was made to facilitate prosecution.

Claim 52 is related to previous Claims 18 and 19. It is believed that the above comments are equally apposite here with respect to the ELVISLIVES sequences. The amendment to Claim 51 was made to facilitate prosecution.

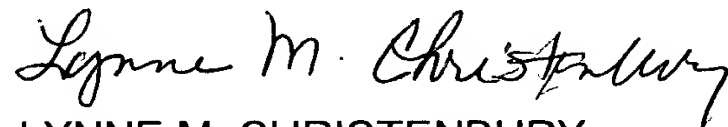
In view of the above discussion and amendments, it is respectfully submitted that the previous submission filed on May 27, 2004 was fully responsive to the prior

Office Action. The amendments were made to facilitate prosecution but do not alter the substantive nature of the claims presented in the aforementioned submission.

It is respectfully submitted that the claims are now in form for allowance which allowance is respectfully requested.

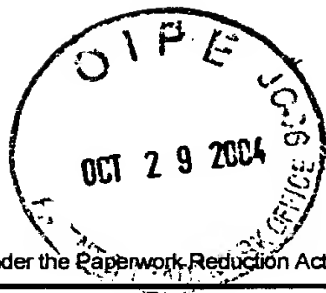
Please charge any fees or credit any overpayment of fees which are required in connection with the filing of this Response After Final to Deposit Account No. 04-1928 (E. I. du Pont de Nemours and Company).

Respectfully submitted,



LYNNE M. CHRISTENBURY
ATTORNEY FOR APPLICANT
REGISTRATION NO. 30,971
TELEPHONE: 302-992-5481
FACSIMILE: 302-892-1026

Dated: October 27, 2004



Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on October 27, 2004
Date

Lisa Z. Turner
Signature

LISA Z. TURNER
Type or printed name of person signing Certificate

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

Application No.: 09/887194
Docket No.: BB1449 US NA
Response to Office Communication – 7 pages
Postcard